

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
 Washington, D.C. 20554

RECEIVED &amp; INSPECTED

FEB 27 2003

FCC - MAILROOM

In the Matter of )

Amendment of Section 73.622(b), )

Table of Allotments, )

Digital Television Broadcast Stations )

Fort Myers, Florida )

MM Docket No. 00-180

RM-9956

To: **Chief**, Video Division  
 Media Bureau

**OPPOSITION TO PETITION FOR RECONSIDERATION  
 OR MODIFICATION OF POST-NEWSWEEK STATIONS, INC.**

**Fort** Myers Broadcasting Company ("FMBC") opposes the Petition for Reconsideration or Modification filed by Post-Newsweek Stations, Inc. ("Post-Newsweek"). Therein Post-Newsweek **asks** that the Federal Communications Commission ("Commission") consider changes in the status of Station WBSP-LP, Naples, Florida, and claimed interference to other existing services, and reverse the Report and Order<sup>1</sup> allotting DTV Channel 9 to Fort Myers, Florida

Interference to WBSP-LP<sup>2</sup>

Post-Newsweek claims that the Report and Order erred in dismissing reply comments filed by Caloosa Television Corporation ("Caloosa") for raising, for the first time, the matter of interference to a Class A eligible LPTV station. Post-Newsweek argues that contrary to the Report and Order's findings, Post-Newsweek raised this issue in its initial comments. However, Post-

---

1

DA 02-3154, released November 20, 2002 (hereafter, the "Report and Order").

2

The call sign of WBSP-LP has been changed to WBSP-CA but for continuity, the station is referred to by its prior call letters herein.

Newsweek is mistaken. While Post-Newsweek discussed interference to WBSP-LP in its initial comments, it made no mention of WBSP-LP's eligibility for Class A status.

Post-Newsweek claims that the Report and Order erred when it found that WBSP-LP was not eligible for Class A status, noting that, on August 10, 2001, WBSP-LP was awarded a Class A license. Post-Newsweek fails to note, however, that the public was afforded no opportunity to oppose grant of WBSP-LP's Class A license application' and that FMBC filed a timely petition for reconsideration of this grant.

Review of the Commission's files for Station WBSP-LP demonstrates that the station never provided the type of programming service that could have qualified it for Class A status. Instead the station, which operated as a TV translator, was off-the-air at all times relevant to its claim of Class A eligibility!

On November 29, 1999 Congress established a statutory scheme for the purpose of conferring protected Class A status on a small number of low power television license holders who "operated their stations in a manner consistent with the programming objectives and hours of operation of full-power broadcasters providing worthwhile services to their respective communities while under severe license limitations compared to their full power counterparts." Congress' plan envisioned

---

3

The application, FCC File No. BLTVA-20010712AIK, appeared on public notice as accepted for filing on August 10, 2001, the very day it was granted.

4

Various FCC filings relating to Caloosa's efforts to keep WBSP-LP off-the-air are attached hereto as Exhibit A.

5

See Community Broadcasters Protection Act of 1999, Section 5008 of Pub. L. No. 106-113, 113 Stat 1501 (1999), codified at 47 USC §336(f) (hereinafter, the "CBPA").

that a “qualifying low power television station” would be afforded primary status as a Class A television broadcaster “as long as the station continues to meet the requirements for a qualifying low power station....”<sup>6</sup> Congress defined a qualifying low power television as a station which, during the 90 day period prior to adoption of the CPBA, (a) broadcast a minimum of 18 hours per day, (b) broadcast an average of 3 hours per week of local programming, and (c) complied with the Commission’s requirements applicable to low power television stations.’

During the 90 days prior to the adoption of the CPBA, WBSP-LP was off-the-air.’ In fact, during the period from August 8, 1997 through June 16, 2000, WBSP-LP did not operate for more than fifteen days.<sup>9</sup> There is no factual basis to support Class A status for WBSP-LP and the Report and Order is correct in its conclusion that WBSP-LP is not a Class A eligible facility.

FMBC submits that WBSP-LP provided so little service to the public that its license was automatically forfeited on August 7, 1999, under the provisions of Section 312(g) of the Communications Act of 1934, as amended (the “Communications Act”). In support of this, FMBC notes that Station WBSP-LP stopped transmitting from its licensed transmitting site on August 8,

---

6

See 47 USC §336(f)(1)(A)(ii).

7

See 47 USC §336(f)(2). The Commission was also granted additional authority to award Class A status to stations if the public interest convenience and necessity would be served by such a grant.

8

See Exhibit A, pp. 39-50.

9

See Exhibit A, pp. 16, 26-52, 58-63 and 66. Caloosa claims that WBSP-LP operated from July 31, 1998 to August 7, 1998 and from June 14, 1999 to June 22, 1999. FMBC contends that WBSP-LP had no operating authority in June 1999 and, therefore, Caloosa operated an unauthorized facility in June of 1999, not broadcast station WBSP-LP.

1997 and, by March 31, 1998, had lost the right to use its licensed site.” The station was granted an STA on July 23, 1998 to operate from a Naples, Florida CATV headend but ceased operating under this STA on August 7, 1998, due to substantial interference to cable channel 9.<sup>11</sup> This STA ultimately expired on January 23, 1999 and was not replaced until June 20, 2000. Accordingly from January 23, 1999 to June 20, 2000, WBSP-LP had no authority to transmit from anywhere except the transmitter site it lost prior to March 31, 1998.

Section 312(g) of the Communications Act, 47 USC §312(g) provides:

If a broadcasting station fails to transmit broadcast signals for any consecutive 12-month period, then the station license granted for the operation of that broadcast station expires at the end of that period, notwithstanding any provision, term, or condition of the license to the contrary.

FMBC submits that the seventeen month lapse in WBSP-LP’s operating authority requires forfeiture of the station’s broadcast license under the provisions of Section 312(g).

Caloosa claims Station WBSP-LP was on the air eleven days during the seventeen month period that its operating authority lapsed.<sup>12</sup> However, Caloosa was clearly operating unlicensed facilities, in violation of Section 301 of the Communications Act, 47 USC §301. In applying Section 312(g) to the facts of this case, the Commission should hold that transmitting an unauthorized signal from an unlicensed facility in violation of Section 301 of the Communications Act is not the equivalent of transmitting a broadcast signal from an authorized broadcasting station. Such

---

10

See Exhibit A, pp. 10-16.

11

See Exhibit A, pp. 17-24.

12

See supra note 9.

unauthorized transmissions cannot be effective to prevent Station WBSP-LP's automatic license forfeiture under Section 312(g) of the Communications Act. Station WBSP-LP ceased its existence August 7, 1999, after it failed to transmit a signal for a period of one year.

#### Interference to Existing Services

Post-Newsweek reargues the position it advanced below, that the allotment of DTV Channel 9 to Fort Myers, Florida will create interference beyond that predicted by the FCC's interference methodologies because of a "super-refraction" phenomenon. Post-Newsweek does not seek to have all of Florida's TV and DTV allotments adjusted for this "super-refraction" phenomenon, just Fort Myers' DTV Channel 9. The Reuort and Order properly rejected Post-Newsweek's super-refraction arguments and there is no need to revisit them on reconsideration. See WWIZ, Inc. 37 FCC 2d 685, 686 (1964), aff'd sub nom. Lorain Journal Co. v. FCC, 351 F. 2d 824 (D.C. Cir. 1965), cert denied, 383 U.S. 967 (1966).

#### Public Interest Considerations

Post-Newsweek contends that FMBC has advanced no public interest considerations justifying allotment of DTV Channel 9 to Fort Myers. This argument is a transparent attempt to reverse the burden of proof in this rulemaking proceeding. FMBC has advanced a rulemaking proposal meeting all technical requirements embodied in the FCC rules. There is a presumption that FCC rules serve the public interest. See e.g., Carolina Broadcasting Co., 16RR 2d 801,803 (1969). The burden is on Post-Newsweek to allege and prove facts demonstrating that grant of FMBC's proposal is contrary to the public interest. The Reuort and Order correctly concluded that Post-Newsweek did not meet this burden.

In view of the foregoing, FMBC requests that Post-Newsweek's Petition for Reconsideration

or Modification be denied.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Joseph A. Belisle". The signature is fluid and cursive, with the first name "Joseph" and last name "Belisle" clearly distinguishable.

Joseph A. Belisle  
Counsel for Fort Myers Broadcasting Company

February 26, 2003

Leibowitz & Associates, P.A.  
One **SE** Third Avenue, Suite 1450  
Miami, FL 33131  
(305) 530-1322

## CERTIFICATE OF SERVICE

I, Maria I. Priede, hereby certify that I have this 26<sup>th</sup> day of February, 2003, caused a copy of the foregoing "Opposition to Petition for Reconsideration or Modification of Post-Newsweek Stations, Inc." to be delivered by U.S. First Class Mail, postage prepaid, to the following:

Jennifer A. Johnson  
Covington & Burling  
1201 Pennsylvania Avenue, N.W.  
Washington, D.C. 20004  
Counsel for Post-Newsweek Stations, Florida, Inc.

Kevin F. Reed, Esq.  
Dow Lohnes & Albertson, P.L.L.C.  
1200 New Hampshire Avenue, NW, Suite 800  
Washington, DC 20036  
Counsel for Cox Broadcasting, Inc.

John R. Feore, Jr., Esq.  
Dow Lohnes & Albertson, PLLC  
1200 New Hampshire Avenue, NW, Suite 800  
Washington, DC 20036  
Counsel for Media General Communications, Inc.

Dennis J. Kelly, Esq.  
Law Offices of Dennis J. Kelly  
Post Office Box 41 177  
Washington, DC 20018  
Counsel for Caloosa Television Corporation

  
\_\_\_\_\_  
Maria I. Priede

## **Exhibit A**

### **Selected FCC Filings WBSP-LP**



RECEIVED

JUL 05 1995

**TAMIAMI NAPLES, INCORPORATED**

Corporate Offices  
% Holston Valley Broadcasting Corporation  
222 Commerce Street  
Kingsport, Tennessee 37660  
Phone: (615) 246-9578  
Facsimile: (615) 246-6261

FCC MAIL ROOM

July 3, 1995

Mr. William Caton  
Acting Secretary  
FEDERAL COMMUNICATIONS COMMISSION  
1919 M. Street, NW  
Washington, DC 20554

VIA FEDERAL EXPRESS

RE: LPTV      ic      ~~W09BS, Naples, Florida~~

Dear Mr. Caton:

Tamiami Naples, Incorporated (TNI), licensee of Low Power Television (LPTV) station W09BS, channel 9, Naples, Florida, hereby informs the Commission that W09BS is temporarily off the air due to intermittent transmitter difficulty, which we believe to be lightning-related. The local technicians TNI normally employs in Naples have been unable to make the required repairs, and the W09BS transmitter has been shipped to Kingsport, Tennessee, where the engineering staff of co-owned Holston Valley Broadcasting Corporation is addressing the problem.

TNI requests the Commission's authority for W09BS to remain off the air in "silent" status for a period of up to sixty days in order to complete transmitter repairs and return the transmitter to Naples and W09BS to normal operation.

In the meantime the principal cable system through which most of W09BS's audience views W09BS's programming continues to receive W09BS programming via other means.

A completed "ANTI-DRUG ABUSE ACT CERTIFICATION" form is enclosed.

Sincerely,

TAMIAMI NAPLES, INCORPORATED

*George E. DeVault, Jr.*  
George E. DeVault, Jr.  
President

**DUPLICATE**

Enclosure

ANTI-DRUG ABUSE ACT CERTIFICATION

The applicant certifies that, in the case of an individual applicant, he or she is not subject to a denial of federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. § 853a, or, in the case of a non-individual applicant (e.g. corporation, partnership or other unincorporated association), no party to the application is subject to a denial of federal benefits pursuant to that section. For the definition of a "party" for these purposes, see 47 C.F.R. § 1.2002(b).

Yes

[ 1 No

<u>TAMIAMI NAPLES, INC.</u>	
Name of Applicant	Signature
	<u>George E. D'Amico, Jr.</u>
Date	Title
<u>1/3/95</u>	<u>PRESIDENT</u>

FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554

JUL 7 1995

IN REPLY REFER TO: 1800E2  
M.H.

Tamiami Naples, Inc.  
P. O. Box WKPT  
Kingsport, TN 37662

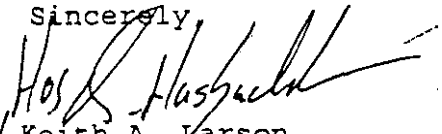
In re: LPTV or TV Translator Station of:  
Tamiami Naples, Inc.  
W09BS, Naples, FL

Gentlemen:

This refers to your above-captioned Low Power Television or Television Translator Station and your request for Special Temporary Authority to remain silent.

Your request IS HEREBY GRANTED and silent authority is authorized to October 7, 1995. Any further request must be accompanied by a progress report as to your efforts to resume operations.

Sincerely,

*Fu/*   
Keith A. Larson  
Chief, LPTV Branch  
Video Services Division  
Mass Media Bureau

*Law Offices*  
**CORDON AND KELLY**  
*Post Office Box 6648*  
*Annapolis, Maryland 21401*

DUPLICATE

DENNIS J. KELLY  
(DISTRICT OF COLUMBIA BAR ONLY)

TELEPHONE: 410-280-6290  
202-293-2300

TELECOPIER: 410-6261794  
CIS E-MAIL: 72274,3715

May 16, 1996

RECEIVED

Federal Communications Commission  
Washington, DC 20554

MAY 16 1996

RE: WBSP-LP, Naples, Florida  
Request to Remain Silent

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

Gentlemen:

On behalf of Tamiami Fort Myers, Inc., licensee of Low Power Television Station WBSP-LP, Channel 9, Naples, Florida, this is to report that station WBSP-LP is currently off the air due to the need for transmitter repairs. The station's transmitter **has** been shipped from Florida to Tennessee for repairs. It is anticipated that the station will return to the air within the next 90 days.

Therefore, pursuant to Section 73.1740 of the Commission's Rules, this is to request a Special Temporary Authorization to remain silent pending the completion of repairs. An "Anti-Drug Abuse Act Certification" is appended to this request.

Should additional information be desired in connection with the above matter, kindly communicate with this office.

Very truly yours,

  
Dennis J. Kelly

DUPLICATE  
-4-

RECEIVED

MAY 16 1996

ANTI-DRUG ABUSE ACT CERTIFICATION

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

The applicant certifies that, in the case of an individual applicant, he or she is not subject to a denial of federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. § 853a, or, in the case of a non-individual applicant (e.g. corporation, partnership or other unincorporated association), no party to the application is subject to a denial of federal benefits pursuant to that section. For the definition of a "party" for these purposes, see 47 C.F.R. § 1.2002(b).

☒ Yes

☐ No

Name of Applicant	Signature
TAMiami FORT MYERS, INC.	<i>[Signature]</i>
Date	Title
5/15/96	president



Federal Communications Commission  
Washington, D.C. 20554

MAY 22 1996

IN REPLY REFER TO: 1800E2  
M.H.

Tamiami Fort Myers, Inc.  
P. O. Box WXPT  
Kingsport, TN 37662

In re: LPTV or TV Translator Station of:  
Tamiami Fort Myers, Inc.  
WBSP-LP, Naples, FL

Gentlemen:

This refers to your above-captioned Low Power Television or Television Translator Station and your request for Special Temporary Authority to remain silent.

Your request IS HEREBY GRANTED and silent authority is authorized to August 22, 1996. Any further request must be accompanied by a progress report as to your efforts to resume operations.

Sincerely,

Hossein Hashemzadeh  
Supervisory Engineer, LPTV Branch  
Video Services Division  
Mass Media Bureau

cc: Dennis J. Kelly, Esquire

DUPLICATE

Copy Sent to Ref. Rm.

ORIGINAL

*Law Offices*  
**CORDON AND KELLY**  
*Post Office Box 6648  
Annapolis, Maryland 21401*

TELEPHONE: 410-280-6290  
202-293-2300

**DENNIS J. KELLY**  
(DISTRICT OF COLUMBIA BAR ONLY)

TELECOPIER: 410-626-1794  
CIS E-MAIL: 72274,3715

August 15, 1996

RECEIVED

AUG 15 1996

**FOR BAPS INPUT**

Federal Communications Commission  
Washington, DC 20554

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

**RE: LPTV Station WBSP-LP  
Channel 9, Naples, Florida**

Gentlemen:

On behalf of Tamiami Fort Myers, Inc., licensee of Low Power Television Station WBSP-LP, Naples, Florida, this is to report that station WBSP-LP has returned to the air on Tuesday, August 13, 1996 and is now in operation. WBSP-LP had been temporarily silent due to transmitter problems. It is respectfully requested that the Commission amend its records to show that station WBSP-LP is an operating station.

Should additional information be desired in connection with the above matter, kindly communicate with this office.

Very truly yours,

  
Dennis J. Kelly

Copy Sent to Ref. Rm.

*Law Offices*  
**CORDON AND KELLY**  
Part Office Box 6648  
Annapolis, Maryland 21401

ORIGINAL

DENNIS J. KELLY  
(DISTRICT OF COLUMBIA BAR ONLY)

RECEIVED

TELEPHONE 410-280-6290  
202-293-2300

JAN 30 1997

TELECOPIER: 410-626-1794  
CIS E-MAIL: 72274,3715

January 30, 1997

COMMISSION  
OF PUBLIC UTILITIES

Federal Communications Commission  
Washington, DC 20554

RE: WBSP-LP, Naples, Florida

Gentlemen:

On behalf of Tamiami Fort Myers, Inc., licensee of Low Power Television Station WBSP-LP, Channel 9, Naples, Florida, this is to inform the Commission that the station is currently dark. The licensee will keep the Commission informed of its efforts to return the station to the air.

Should additional information be desired in connection with this matter, kindly communicate with this office.

Very truly yours,



Dennis J. Kelly



Law Office of  
**DENNIS J. KELLY**  
Post Office Box 6618  
Annapolis, Maryland 21401

DUPLICATE

MEMBER, DISTRICT OF COLUMBIA BAR ONLY;  
PRACTICE LIMITED TO FEDERAL COMMUNICATIONS LAW

RECEIVED

MAR 31 1998

March 30. 1998

TELEPHONE: 888-322-5291  
202-293-2300

TELECOPIER: 410-626-1794  
E-MAIL: dkellyfclaw1@msn.com

**BY FEDERAL EXPRESS**

Federal Communications Commission  
Mass Media Services  
Post Office Box 358165  
Pittsburgh, PA 15251-5165

**RE: WBSP-LP, Naples, Florida**  
Renewal of License Application

Gentlemen:

On behalf of Tamiami Fort Myers, Inc., licensee of Low Power Television Station WBSP-LP, Naples, Florida, there is transmitted herewith in triplicate an application for renewal of license of station WBSP-LP.

The required FCC Form 159 and filing fee check in the amount of \$45.00 are appended to the original of this submission.

Should additional information be desired in connection with the above matter, kindly communicate with this office.

Very truly yours,

  
Dennis J. Kelly  
Dennis J. Kelly

**FCC 303-S**

**APPLICATION FOR  
RENEWAL OF LICENSE  
FOR AM, FM, TV,  
TRANSLATOR OR  
LPTV STATION**

USE  
ONLY

FOR COMMISSION USE ONLY

FILE NO. *BrtrL-980331AW*

AM, FM and TV APPLICANTS MUST COMPLETE AND SUBMIT SECTIONS I, II, III AND V ONLY

FM TRANSLATOR, TV TRANSLATOR and LPTV APPLICANTS MUST COMPLETE AND SUBMIT SECTIONS I, II, IV AND V ONLY

IF APPLICATION IS FOR RENEWAL OF LICENSES FOR BOTH A PRIMARY STATION and A CO-OWNED TRANSLATOR WHICH  
REBROADCASTS THE PRIMARY STATION'S SIGNAL, APPLICANT **MUST** COMPLETE AND SUBMIT SECTIONS I, II, III, N AND V

**SECTION I (FEE INFORMATION) - TO BE COMPLETED BY ALL APPLICANTS**

<b>I PAYOR NAME (Last, First, Middle Initial)</b> MIAMI FORT MYERS, INC.																														
<b>MAILING ADDRESS (Line 1) (Maximum 35 characters)</b> Post Office Box WKPT																														
<b>CITY</b> Kingsport		<b>STATE OR COUNTRY (if foreign address)</b> TN	<b>ZIP CODE</b> 37662																											
<b>TELEPHONE NUMBER (include area code)</b> 423-246-9578		<b>CALL LETTERS</b> WBSP-LP	<b>OTHER FCC IDENTIFIER (IF APPLICABLE)</b>																											
A. Is a fee submitted With this application? <span style="float:right"><input type="checkbox"/> Yes <input type="checkbox"/> No</span>																														
B. If No, indicate reason for fee exemption (see 47 C.F.R. Section 1.1114): <input type="checkbox"/> Governmental Entity <input type="checkbox"/> Noncommercial educational licensee <input type="checkbox"/> Other (Please explain):																														
C. If Yes, provide the following information:																														
Enter in Column (A) the correct Fee Type Code for the service you are applying for. Fee Type Code may be found in the "Mass Media Services Fee Filing Guide." Column (B) lists the Fee Multiple applicable for this application. Enter in Column (C) the result obtained from multiplying the value of the Fee Type Code in Column (A) by the number listed in Column (B).																														
(1)	<table border="1" style="width:100%"><tr><th colspan="3">(A) FEE TYPE CODE</th></tr><tr><td>M</td><td>A</td><td>L</td></tr></table>	(A) FEE TYPE CODE			M	A	L	<table border="1" style="width:100%"><tr><th colspan="4">(B) FEE MULTIPLE (if required)</th></tr><tr><td></td><td></td><td></td><td>1</td></tr></table>	(B) FEE MULTIPLE (if required)							1	<table border="1" style="width:100%"><tr><th colspan="2">(C) FEE DUE FOR FEE TYPE CODE IN COLUMN (A)</th></tr><tr><td>\$</td><td>45.00</td></tr></table>	(C) FEE DUE FOR FEE TYPE CODE IN COLUMN (A)		\$	45.00	<table border="1" style="width:100%"><tr><th>FOR FCC USE ONLY</th></tr><tr><td></td></tr></table>	FOR FCC USE ONLY							
(A) FEE TYPE CODE																														
M	A	L																												
(B) FEE MULTIPLE (if required)																														
			1																											
(C) FEE DUE FOR FEE TYPE CODE IN COLUMN (A)																														
\$	45.00																													
FOR FCC USE ONLY																														
To be used only when you are requesting concurrent actions which result in a requirement to list more than one Fee Type Code.																														
(2)	<table border="1" style="width:100%"><tr><th colspan="3">(A)</th></tr><tr><td></td><td></td><td></td></tr></table>	(A)						<table border="1" style="width:100%"><tr><th colspan="4">(B)</th></tr><tr><td></td><td></td><td></td><td></td></tr></table>	(B)								<table border="1" style="width:100%"><tr><th colspan="2">(C)</th></tr><tr><td>\$</td><td></td></tr><tr><td colspan="2">TOTAL AMOUNT REMITTED WITH THIS APPLICATION</td></tr><tr><td>\$</td><td>45.00</td></tr></table>	(C)		\$		TOTAL AMOUNT REMITTED WITH THIS APPLICATION		\$	45.00	<table border="1" style="width:100%"><tr><th>FOR FCC USE ONLY</th></tr><tr><td></td></tr><tr><th>FOR FCC USE ONLY</th></tr><tr><td></td></tr></table>	FOR FCC USE ONLY		FOR FCC USE ONLY	
(A)																														
(B)																														
(C)																														
\$																														
TOTAL AMOUNT REMITTED WITH THIS APPLICATION																														
\$	45.00																													
FOR FCC USE ONLY																														
FOR FCC USE ONLY																														
ADD ALL AMOUNTS SHOWN IN COLUMN C, LINES (1) AND (2), AND ENTER THE TOTAL HERE. THIS AMOUNT SHOULD EQUAL YOUR REMITTANCE.																														

1 NAME OF LICENSEE OF AM, FM OR TV STATION	NAME OF <b>LICENSEE OF FM OR TV TRANSLATOR OR LOW POWER TV STATION</b>  Tamiami Fort Myers, Inc.
MAILING ADDRESS Post Office <b>Box</b> WKPT	
CITY Kingsport	STATE TN
ZIP CODE 37662	

2. This application is for:      ☒ Commercial      ☐ Noncommercial
- (a)   ☐ AM      ☐ FM      ☐ TV

Call Letters	Community of Licmw	
	City	State

☒

Call Letters	Area Licensed to Serve	
SP-LP	City Naples	State Florida
Call Letters	Area Licensed to Serve	
	City	State

3. Attach as an Exhibit an identification of any FM booster or TV booster station for which renewal of license is also requested.

Exhibit No. --
-------------------

Is the applicant in compliance with the provisions of Section 310 of the Communications Act of 1934, as amended, relating to interests of aliens and foreign governments?

☒ Yes      ☐ No

If No, attach as an Exhibit an explanation.

Exhibit No. --
-------------------

5. Since the filing of the applicant's last renewal application or any other application for the subject station(s), has an adverse finding been made or final action been taken by any court or administrative body with respect to the applicant or parties to the application in a civil or criminal proceeding, brought under the provisions of any law relating to the following: any felony; mass media related antitrust or unfair competition; fraudulent statements to another governmental unit; or discrimination?

☐ Yes      ☐ No

If the answer is Yes, attach as an Exhibit a full disclosure concerning the persons and matters involved, including an identification of the court or administrative body and the proceeding (by dates and file numbers), and the disposition of the litigation. Where the requisite information has been earlier disclosed in connection with another application or as required by 47 U.S.C. Section 1.65(c), the applicant need only provide: (i) an identification of that previous submission by reference to the file number in the case of an application, the call letters of the station regarding which the application or Section 1.65 information was filed, and the date of filing; and (ii) the disposition of the previously reported matter.

Exhibit No. --
-------------------

6. Would a Commission grant of this application come within 47 C.F.R. Section 1.1307, such that it may have a significant environmental impact, including exposure of workers or the general public to levels of RF radiation exceeding identified health and safety guidelines issued by the American National Standards Institute?

☐ Yes      ☒ No

NOTE Licensees of FM translator stations operating with an effective radiated power (ERP) of 100 watts or less are exempt only from the RF radiation requirements in 47 C.F.R. Section 1.1307. All other requirements of the rule must be met.

If Yes, attach as an Exhibit an Environmental Assessment, as required by 47 C.F.R. Section 1.1311.

Exhibit No. --
-------------------

☒ Explanation attached

See Exhibit No. 1 for explanation

- 11 -

# SECTION IV TO BE COMPLETED BY FM TRANSLATOR, TV TRANSLATOR and LPTV APPLICANTS ONLY

Is the applicant's station currently operating and rebroadcasting the signal of an FM, TV or LPTV station?

☐ Yes ☐ No

If Yes, identify the station being rebroadcast:

Call Sign	Channel No.	City of License/Area Served

If No, attach as an Exhibit **a** statement of explanation, including the steps the applicant intends to take to resume operations.

Exhibit No.  
2

2. Is the station being rebroadcast licensed to either the applicant or a commonly controlled entity?

☐ Yes ☐ No

not applicable

If No, has the required retransmission consent been obtained?

☐ Yes ☐ No

If No, attach as an Exhibit an explanation.

Exhibit No.  
n/a

3. Is the station being rebroadcast the same station as previously notified? not applicable

☐ Yes ☐ No

If No, attach as **an** Exhibit an explanation, including an identification of the station that was previously rebroadcast.

Exhibit No.  
n/a

## FOR LOW POWER TV APPLICANTS ONLY

Have the Broadcast Station Annual Employment Reports (FCC Form 395-B) been filed with the Commission **as** required by 47 C.F.R. Section 73.3612?

☒ Yes ☐ No

If No, attach **as** an Exhibit an explanation

Exhibit No.  
--

5 FOR FM TRANSLATOR APPLICANTS ONLY: not applicable

(a) Is the applicant **in** compliance with 47 C.F.R. Section 74.1232(d) which prohibits the common ownership of a commercial primary station and an FM translator station whose coverage contour extends beyond the protected contour of the commercial primary station being rebroadcast? This restriction also applies to any person or entity having any interest in, or any connection with, the primary FM station.

☐ Yes ☐ No

If No, attach **as** an Exhibit **an** explanation.

Exhibit No.

(b) Is the applicant in compliance with 47 C.F.R. Section 74.1232(e) which prohibits an FM translator station whose coverage contour extends beyond the protected contour of the commercial primary station being rebroadcast from receiving any support (except for specified technical assistance), before, during or after construction, directly or indirectly, from the primary station or **any** person or entity having any interest in, or any connection with, the primary station?

☐ Yes ☐ No

If No, attach **as an** Exhibit an explanation.

Exhibit No.  
--

## SECTION V: TO BE COMPLETED BY ALL APPLICANTS

FOR AM, FM OR TV APPLICANTS ONLY Applicant has attached Sections I, II, III, and V only.

☐ Yes ☐ No

FOR FM TRANSLATOR, TV TRANSLATOR OR LPTV APPLICANTS ONLY Applicant has attached Sections I, II, IV and V only.

☒ Yes ☐ No

FOR CO-OWNED TRANSLATOR AND PRIMARY STATION APPLICANTS ONLY:  
Applicant has attached Sections I, II, III, IV and V.

☐ Yes ☐ No

The APPLICANT hereby waives any claim to the use of any particular frequency or of the electromagnetic spectrum as against the regulatory power of the United States because of the previous use of the same, whether by license or otherwise, and requests an authorization in accordance with this application. (See Section 304 of the Communications Act of 1934, as amended.)

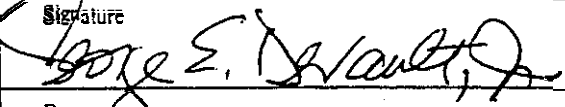
The APPLICANT acknowledges that all the statements made in this application and attached exhibits are considered material representations and that all the exhibits are a material part hereof and are incorporated herein as set out in full in the application.

## CERTIFICATION

1. By checking Yes, the applicant certifies that, in the case of an individual applicant, he or she is not subject to a denial of federal benefits that includes FCC benefits pursuant to Section 5301 of the Anti-Dmg Abuse Act of 1988, 21 U.S.C. Section 862, or, in the case of a non-individual applicant (e.g., corporation, partnership or other unincorporated association), no party to the application is subject to a denial of federal benefits that includes FCC benefits pursuant to that section. For the definition of a "party" for these purposes, see 47 C.F.R. Section 1.2002(b).

☒ Yes ☐ No

2. I certify that the statements in this application are true, complete, and correct to the best of my knowledge and belief, and are made in good faith.

Name MIAMI FORT MYERS, INC.	Signature 
Title President	Date 27 MARCH 1998

WILLFUL FALSE STATEMENTS MADE ON THIS FORM ARE PUNISHABLE BY FINE AND/OR IMPRISONMENT  
(U.S. CODE, TITLE 18, SECTION 1001), AND/OR REVOCATION OF ANY STATION LICENSE OR  
CONSTRUCTION PERMIT (U.S. CODE, TITLE 47, SECTION 503) AND/OR FORFEITURE (U.S. CODE,  
TITLE 47, SECTION 503))

-13-

**STATEMENT CONCERNING ENVIRONMENTAL IMPACT**

I have examined the Commission's environmental requirements in 47 C.F.R. §1.1307 as outlined in: (1) Appendix A to OET Bulletin 65, Evaluating Compliance with FCC Guidelines for Human Exposure to Radiofrequency Electromagnetic Fields (Edition 97-01, August, 1997); (2) Section 3, "Television Broadcast Stations", to Supplement A: Additional Information *for* Radio and Television Broadcast Stations" (Edition 97-01); and (3) the "General Environmental Worksheet contained on page 23 of the License Renewal Booklet" (November, 1997 edition). Based on the foregoing, I have determined that operation of our facilities will not have a significant environmental impact as defined by Section 1.1307, which includes consideration of the exposure of workers or the general public to levels of Radio Frequency radiation exceeding identified guidelines adopted by the Federal Communications Commission.

TAMIAMI FORT MYERS. INC.

By George E. DeVault, Jr.  
George E. DeVault, Jr.  
President

DATED 27 MARCH 1998

TAMIAMI FORT MYERS, INC.  
WBSP-LP, NAPLES, FLORIDA  
FCC FORM 303-S  
EXHIBIT NO. 2

In response to question 1 of Section IV of FCC Form 303-S, WBSP-LP, Channel 9, Naples, Florida last operated on August 8, 1997. Since that time WBSP-LP has lost its transmitter site. WBSP-LP will be filing a request for a Special Temporary Authorization to operate from a different transmitter site, so that the station can return to the air on or prior to August 7, 1998, to avoid losing the station's license by operation of 47 U.S.C. §312(g).